

November 17, 2016

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Room TW-B204
Washington, D.C. 20554

Re: Somos Petition, request for comments

Dear Ms. Dortch:

My name is Noah Rafalko and I am an innovator in the advanced communications technology space. The company I am the CEO of is TSG Global. TSG has been supporting advanced communications deployment since the 90's. TSG has been a USF contributor on our voice support for many years and entered text messaging in 2007. That is when we started our journey to better understand how to apply this emerging technology to our clients.

Messaging has evolved into the communication channel of choice for consumers. Businesses are feverishly working toward messaging solutions that fill this need. This mutual need drives TSG toward supporting solutions for this problem. Solving these two problems require innovation. This technology will grow as websites have done to date. With any new technology, consumer adoption relies on quality, reliability, and security.

Section I. Emerging Technology Impacted

TSG has been a part of the evolution of just one of these technologies called "Bots". This emerging technology is being compared with what websites are to business

today. All business will have interactive bots providing access to their services. Examples of substantial business investments into this technology validate this statement.

Technology companies like Facebook, Apple and Google have released consumer facing bots. Touting this technology as the next "Big Thing," to support commerce to the consumer. Bots are ambiguous to messaging networks. Meaning that innovators look at SMS as an option to use as transport. If it becomes too expensive or unreliable, other channels such as OTT, RCS etc. will replace the need for SMS.

Bots Provide:

- Simple, self-service functions to consumers who use messaging every day, like; your child signing up for a softball team or reporting a bully
- Bots enable a business to support social media and SMS text messaging through a single solution
- These new channels allow consumers to communicate with business in the way they choose. SMS, Social Media messaging etc.
- Bots will also embrace new messaging technologies of the future

Section II. Industry Groups

The CTIA (Cellular Telephone Industries Association), is an industry trade group representing wireless communication sectors. This includes the best practices workgroup, which most of the messaging industry participates in.

The CTIA has made attempts to moderate between the wireless operators and the participants. TSG, Google, Twilio, Genesys, Bandwidth, West Communications are some of these active members. The collaborative effort has fallen short with requests

from the participants to mediate. This may be partially effected by the financial relationship between the wireless operators and CTIA.

Evidence of this failure was when in 2012, Toll Free messaging went through an outage. This event was consumer impacting and the CTIA was unaware or helpful when it happened. Zip Whip marginalized the CTIA's authority as a shared resource. This action made it clear to all that the CTIA was not as involved as that role requires.

This exclusive deal between Verizon and Zip Whip furthered existing bad behavior from the wireless operators. This bad behavior has gone unchecked and now has expanded to over 17 revenue share agreements. The CTIA has yet to make any public comment with having sole vendor for all industry participants.

Many industry participants have submitted related redlines to the best practices draft.

Some include neutrality within specific key industry roles such as registries. Suggestions that were edited out during the CTIA's private meetings with the wireless operators before final release.

[The impacts are described below in Section VII. Harm.]

Section III. Neutral Registries

Toll Free texting is an industry containing many competitive players both large and small. Neutral registries play a key role for sharing of normally sensitive customer information between these participants. Consumer's and brands demand that protection as well.

When Somos deployed the TSS Registry (Toll Free Neutral Texting Registry), a tested voice process went to work in the messaging space. This process immediately started to protect consumers from having their Toll Free number text enabled without their knowledge. Without this process we are certain to face consumer harm.

- Before the TSS Toll Free numbers were enabled without a centralized process
 - Somos provides a registry as a neutral participant with industry health taking priority
 - Registries can then provide the needed safe harbor for other shared information that would easily reduce robo-calls and spam
 - Somos reflects the true character of a neutral registry. The public knowledge campaign to educate consumers of toll free is a shining example of that fact
- [*The impacts of an industry without registries are described below in Section VII. Harm.*]

Section IV. Resporgs and their Roles

Somos is the, FCC assigned, neutral party who maintains the process and database for Resporgs. Resporgs are the management and sales resource for consumers of Toll Free voice numbers. To become a Resporg requires a certification process Somos provides.

- Somos assigns the rights and responsibilities for toll free number management
- Upon certification within the Somos systems, you are then able to support toll free numbers as a Resporg
- Supporting a high visibility product requires adoption of a well-defined process to protect consumers

- As a Resporg you also agree to maintain privacy of those you and others support

These consumer protecting processes are being ignored by Zip Whip. Stating these legacy processes are unnecessary for toll free texting management and protection of consumers.

[The impacts without Resporgs are described below in Section VII. Harm.]

Section V. Time of Impact

- On the morning of April 03, 2014. It began like any other day at TSG or others who supported consumer usage of Toll Free texting
- TSG started to receive customer impacting, trouble tickets on toll free texting. The consumer complaints were piling up regarding toll free messaging not working on a specific wireless operator
- TSG and others who had consumers disconnected opened trouble tickets with our messaging providers. After no response, TSG followed its escalation process with its vendors. Our counterparts at Twilio, Heywire, and others didn't know what was going on either. The thing we all knew; Verizon's entire network was no longer accessible for Toll Free text. Consumers were out of service
- Industry competitors began to collaborate to identify what was going on

- Within 48 hours the facts became validated. Zip Whip had negotiated a back room deal with Verizon for exclusive revenue share on Toll Free text to their network
- Toll Free text over Verizon Wireless and all other networks, AT&T etc., that wanted to message Verizon, Zip Whip now controlled. This exclusivity agreement, fostered further bad behavior by Zip Whip who was now viewing, sharing and directly marketing to the now treasure trove of messaging users traversing their network
- CTIA has taken no stance and provides little guidance to those who have been impacted
- Harmed industry participants have filed ex partes, letters, cease and desist filings, and petitions
- Zip Whip and the wireless operators have gone unchallenged by the FCC. in creating this toll booth
- To date, 17 wireless operators have an exclusive revenue share agreement with Zip Whip

Section VI. Few Options for Consumers

This outage prevented messaging to or from a toll free number communicating to any Verizon Wireless device.

This premediated event impacted all participants EXCEPT for Zip Whip's direct customers.

This created a broken experience for the rest of us who supported consumers on the toll free text product. TSG proactively then reached out to the following:

A. FCC

- TSG's decade's worth of experience in dealing with consumer harm, defined what the next steps would be taken
- TSG's legal team advised the best FCC contact would be Mark Stone
- TSG immediately reached out to the consumer division of the FCC

- TSG and others were directed also contact Mark Stone, within the FCC
Mr. Stone provided two options:

Option 1 ~ file an FCC complaint through a lawyer*

*The estimated cost \$150k. This process can take months

Option 2 ~ to contact Verizon regulatory within the FCC

- TSG contacted Verizon regulatory at the FCC. TSG was informed that no one contacted or approved such a deal through their regulatory division. Verizon stated they were doubtful such an agreement was executed without completing Verizon's regulatory review process
- We were told they would investigate, and we would be contacted
- When contacted, Verizon informed TSG and others to contact Zip Whip. Without executing a commercial agreement access to Verizon your consumers would remain out of service

B. *Zip Whip*

When contacting Zip Whip, the contract choices were unfavorable

- The agreement demanded \$4,000 monthly commitment
- Your new cost per message charged at an increase of upwards of 1000% per message
- Messaging would now be charged in both directions*
*With all other routes for Toll Free text currently pay only on outbound
- You will have to connect to Zip Whip's technical interface to restore access to Verizon
- To restore Verizon access to your impacted consumers, you must accept one of their connectivity options. Which you choose determines how long your customers remain out of service

[The options are described below in, C. "A Deal You Can't Refuse"]

C. A Deal You Can't Refuse

The connectivity options offered were similar to organized crime terms. The statement made was, "Accept our terms as is, or face the reality that your customers will be blocked until you sign during the now extended legal review process." Zip Whip was now too busy signing contracts with companies that are out of service.

- Option 1: Assign all existing Toll Free messaging to Zip Whip and have service restored in hours *
 - *This option would replace your own identification in the routing databases with Zip Whip's. This option substantially increases costs
- Option 2: Sign the contracts without review or requested changes. Technically connect messaging to Zip Whip's network
 - a. One connection option provided by Zip Whip. All others maintain two.
 - *This connection option may take 1-2 weeks
- Option 3: Request contract edits, redlines that protect customer's privacy. TSG has yet to have final agreements provided by Zip Whip. TSG has been in this process, 4+ years since the shut off, April 2012. TSG has been forced to use others to access Zip Whip

[The impacts are described below in Section VII. Harm.]

Section VII. Harm

➤ **Disruption to a pre-existing consumer used service**

1. When this planned agreement went into effect, **ALL** existing consumers not supported directly by Zip Whip were shut off without prior knowledge.

➤ **Cost:**

1. The new rate for Zip Whip supported Toll Free messaging with revenue share agreements are now well over 1000 times its prior cost.
2. Messaging is now charged for inbound and outbound effectively doubling costs.
3. Innovators will shy away from Toll Free text, as too costly a product to develop on.
4. Zip Whip's high monthly commitment eliminates most.
5. Interactive models such as you messaging your family, friends etc.
6. Responsive bots are now subjected to extremely high commercial costs.

➤ **Toll Booth, Paid Prioritization & Blocking:**

1. Has spread to 17+ operators.
2. Zip Whip's revenue share exclusivity agreements prevent fair and equal access to competition and wireless operators.

3. Message viewing and privacy concerns should be applied the same on messaging as it's voice counterpart enjoys today.
4. Zip Whip maintains a practice of blocking any message containing the words Stop, Help, or Quit. This means that the consumers who want to communicate with a business the same way they do each have to modify their vocabulary removing those terms.
5. Zip Whip may block messages that are compliant.
6. Zip Whip also markets their name to those who use those words.

➤ **Non Participation in Common Registries**

When any participant ignores a shared database and process, bad things happen. Slamming are one of those proven examples. Zip Whip has proven both.

➤ **Privacy**

Trust in messaging is at risk when those who are transporting sometimes personal or sensitive information over texting there are many devices and possible employees viewing, sharing or even selling your picture and text messaging.

Zip Whip databases, their sales arm came to life. Every message received was another lead to contact for message support. Some of which were existing customers who others supported. Zip Whip planned for this event and inevitably laid the groundwork for selling against all other participants.

What Zip Whip was telling these new sales prospects, and how do those facts stack up?

Sales Pitch I:

“We are the only Toll Free texting partner for 17 operators”.

- **Fact:** Truth. This is a major toll booth issue and creates a paid prioritization route.

Sales Pitch II

“We support high throughput as an add value”.

- **Fact:** False. Our counterparts in the industry who use Zip Whip for that purpose say different. Major blocking of authorized messaging still exists on the networks Zip Whip supports.

Sales Pitch III

“Other providers are subpar and a middleman”.

- **Fact:** Each new revenue share partner turned up on Zip Whip could disable the carrier network connections for days. Never once was a notice of a possible event or industry update provided.

[Now 17 wireless operators engage in an exclusive revenue share with Zip Whip for Toll Free text]

Section IX. FCC Optional Solutions

➤ Network Cost Differences

FCC must identify that installing toll booth is not allowed. Enforce existing rules using the *Open Internet Order*. There are no technical or financial differences in transport between local and toll free messaging.

➤ **Toll Booth**

Allowing a single industry chokepoint for any service fosters bad behavior. The following are examples from TSG and or messaging industry counterparts. Provide pressure to the operators to allow for a competitive landscape and not assign a single vendor.

➤ **Portability rules extended to messaging**

Extension of consumer protection when moving from one texting provider to another provides trust in the services provided using messaging.

➤ **Privacy**

Extend the rights of privacy we currently enjoy on voice to messaging.

➤ **Title II**

Title II is an easy button option.

Final Statement

TSG has forged relationships with market leaders in the space of global communications. We now ask you to hear our voice. Participants in the OTT, Enterprise, and Operator space are very invested in the FCC protecting consumers and business alike.

TSG has gained valuable experience evolving technologies such as DSL and VoIP. Utilize this private sector experience when chartering unknown territory.

There are two diagrams attached to help through a visual presentation of what negative change has happened on Toll Free numbers. Toll Free numbers are looked as a major component to the commercial success of SMS text messaging.

The toll booth is indicated by the color comparison:

- **Red** where the chokepoint now exists.
- **Green** colored access on the pre-toll booth diagram.

When reviewing the summary of these examples, the facts become clear. Without some level of intervention from the FCC as the sheriff, this wild, wild, west will prevent true innovators from evolving this emerging industry.

Our voice will continue to be a part of all registries and government requests for meetings, views, insights and understandings to assist in making this a healthy ecosystem.

Without neutral registries managing critical exposure points and equal access to fair competition, the past fraud we've experienced in telecom will inundate the future of messaging. The industry will be at the mercy of greed and power.

As an industry, we plead for your intervention!

Sincerely,

Noah E. Rafalko
CEO Concerned Executive Officer
TSG Global, Inc.
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